

again requests that the Restriction Requirement be reconsidered and withdrawn.

**The Examiner has not stated proper grounds for restriction under 35 USC Sec. 372.** The Examiner's attention is respectfully drawn to MPEP 1893.03(d), which articulates the circumstances under which a perceived lack of unity may be asserted. The Examiner would have to show absence of a "single general inventive concept". Instead, the Examiner has given only reasons which would support a restriction under 35 USC Sec. 121, such as a supposed "separate utility".

If there had been any *bona fide* absence of unity of invention, it would have been noted in the International Search Report in this application (dated December 17, 1998) and the International Preliminary Examination Report (dated April 6, 1999), each prepared by the United States patent and Trademark Office. Neither document shows any lack of unity of invention.

Reconsideration is requested.

**The purported restriction would deny applicant of his entitled "out of order" examination of all pending claims.** Under 37 CFR section 1.496, last sentence, the Patent Office is obligated to take this application "out of order". In particular, this means the applicant is entitled by law to "out of order" consideration of all four purported distinct inventions as identified by the Examiner.

Yet if the Examiner were to persist in restricting this case, then three of the four inventions would be examined (if at all) only in divisional applications which would not be taken up "out of order" under 37 CFR section 1.496, last sentence. The applicant would be denied that to which he is entitled by law, namely "out of order" examination of the second through fourth inventions.

For this reason alone, restriction is improper.

**No additional work is needed if all claims are examined now.** The International Search Report shows no references of significance greater than "A" (general state of the art). The International Preliminary Examination Report finds all 168 claims patentable. Both the International Search Report and the International Preliminary Examination Report were prepared by the US Patent and Trademark Office.

All claims, in other words, have already been searched. No additional searching is needed now.

All claims, in other words, have already been examined.

All claims should be allowable now as a matter of course, given that all claims have already been examined by the US Patent Office and found patentable.

**Election.** Notwithstanding the traversals and requests for reconsideration asserted previously and set forth above, applicant now elects Invention I, namely claims 52-55, 65-140, 142-147, 153-158, and 168 (not 169 as listed in the Office Action).

Claims 163-166 have been amended to depend only from claims in Invention I, so it is requested that these be considered with the claims in Invention I. If the Examiner declines to examine claims 163-166, such action is hereby traversed and reconsideration is requested.

The Examiner is reminded that under 37 CFR section 1.496, last sentence, the Patent Office is obligated to take this application "out of order".

Respectfully submitted,



Carl Oppedahl  
Oppedahl & Larson LLP  
P O Box 5088  
Dillon, CO 80435-5088  
telephone 970-468-6600  
email oppedahl@patcnts.com